19~~48~~-48 **File No.** 6331/36(3)

# B CLASS

P. W. DEPARTMENT
El BRANCH

---

**Subject:—** War Costs Surcharge
(Provision for the Licensees who have failed to make the requisite deduction within the prescribed period)

B[K] 1948

El

**File No.** 6331/36(3)

Std. Sectt. Slip 24-A

G.R., G D., No 2408, dated 22-5-22.]

Correspondence

# DOCKET SHEET (B)

*Subject :—*

File No. 6331/36 (3)

P. W. DEPT.

El. BRANCH.

*References :—*

| Date. | To whom sent. | Notes and instructions. |
|---|---|---|
| | | |

Comm. 6985/36/1943.

Original in File No. 6985/36. P.W.D.

H. Sr.

Resubmitted with reference to the Dy. Secretary's note on the previous page.

2. In accordance with the verbal instructions of the Dy. Secy. yesterday the necy. draft is put up for approval. After issue of the draft the papers may be referred u.o. to the R.L.A. for his opinion on the following point.

3. The order No. 6331/36, dated the 16th June 1944 provides inter alia following:

1. Every licensee shall submit within 30 days from the commencement of the Order a declaration to the Provl. Govt. reh war costs Surcharge and the relevant writings - vide clause 3(1) of the Order. (This period of 30 days expired on the 15th July 1944).

2. Govt. shall by order fix the rate of war costs Surcharge within 30 days from the receipt of the licensee's declaration referred to in 1 above - vide clause 4(1) of the Order.

3. Any existing surcharges applied by a licensee under the existing orders shall be withdrawn upon fixing of a rate of War costs Surcharge by Govt. Under the order or after 60 days from the commencement of the order whichever is earlier - vide clause 7 of the order. (Thes 60 days period expires on the 14th August 1944.)

The time limits mentioned above have been prescribed in the Order with a view to enable the licensees to bring into force the surcharge they desire with the minimum delay.

The point at issue is how the case of licensees who have failed to submit the requisite declaration and the relevant writings re : the War costs Surcharge in accordance with the provision of clause 3(1) of the Order by the 15-7-1944 and have asked for extension of time to submit the requisite information should be dealt with. Ordinarily their case cannot be considered under the Order and so they forfeit their right for levying any surcharge from the 15-8-1944. However, it it would be harsh to penalise such licensees in this way. The solution appears to be either to assume the declared Rate of Surcharge as nil & bring these cases within the purview of the second proviso to clause 4(1) of the Order or to relax the time limits, The R.L.A. may be requested to advise which of the two alternatives would be legally in order. The. R.L.A. may be requested to treat the reference as very urgent.

Jd
21-7-44

Id C.N. P(audit),
21.vii.44.
D.S.,(I. & R.)

VERY URGENT.

u.o.r. (with file 6331/36) to the R.L.A., dated 24th July 1944.

No. 6985/36-El. P.W.D.

B.C., 22nd July, 1944.

To

Messrs. The Ahmednagar El. Supply Co., Ltd.,
Ahmednagar.

Subject:-

War costs Surcharge-

Dear Sirs,

With reference to your letter dated the 14th July 1944, addressed to the El. Engr. to Govt., I am to observe that the time of 30 days provided for in clause3, of the Bombay Electricity Supply (Licensed Undertakings' War costs) Order, 1944, for submission of the declaration re: the war costs Surcharge together with the writings referred to in that clause was sufficiently liberal and Govt. sees no reason why you should not have been able to comply with the provisions of that clause within the prescribed time limit when many other coys.could do so. As a result of this non-compliance you will not ordinarily be entitled to levy any surcharge with effect from the 15th August 1944 - vide clause 7 of the order.

2. In case you care to submit the required information hereafter Govt. may then reconsider your case.

3. As regards your enquiry as to how the increased cost of maintenance materials properly debitable to Current Revenue referred to at item

(4) in clause (a) of the First Schedule to the Order should be calculated the following example illustrates the case :-

| | | |
|---|---|---|
| (1) Period. | Accounting year 1944-45. | |
| (2) Number of units estimated to be generated in the above period i.e. (1) above. | 10,000 units. | |
| (3) Maintenance materials cost estimated to be incurred per unit generated in the period mentioned in (1) above. | x annas. | |
| (4) Actual maintenance materials cost per unit generated in the accounting year ending in 1939. | y annas. | |
| (5) Difference between(3) & (4) above. | x-y annas. | |
| (6) Increased cost of maintenance materials for the period mentioned in (1) above to be taken into account in calculating the rate of War costs Surcharge : item (2) x Item (5) | | (x-y) x 10,000 annas. or Rs. 10,000 x (x-y) / 16. |

Yours faithfully,

D.A. Nil.

Copy for information and guidance to ---

Messrs. The Sangamner El. Supply Co., Ltd., (with reference to their letter, dated the 14-7-1944, to the El. Engineer. to Govt.),

Messrs. The Pandharpur El. Supply Co. (With ref. to their letter no. 161/00/44 dated the 17th May, 1944, to the El. Engineer. to Govt.)

Copy also for information to the El. Engineer to Govt. with reference to his No. L.R.N'31/1719, 1721 and 1755 dated the 17th July, 17th July and 18th July 1944, respectively

Id-S.G.J.
21-7-44.

Issue and then refer M.S. to R.L.A.

Id. G.N.P(audit)
21.vii.44
D.S. (I & R.)

Reading clause 3(1) with clauses 4(1) and 7 of the Bombay Electricity Supply (Licensed Undertakings' War costs) Order, 1944, it appears that what is essential under clause 3(1) is the submission by a licensee of a declaration within a period of 30 days from the commencement of the Order stating whether in his opinion a war costs surcharge in terms of the Order is or is not desirable in the case of his undertaking. His failure to submit such declaration within the prescribed period would be tantamount to his being of opinion that a war costs surcharge was not desirable in the case of his undertaking and consequently the question of fixing a surcharge under clause 4(1) would not arise; much less would it arise under the first proviso to clause 4(1). The Order does not contain any provision empowering Govt. to extend the time under Clause 3(1). Unless therefore the order for submitting a declaration itself is amended declarations under clause 3(1) cannot be accepted after 30 days from the date of the order.

2. This time limit of 30 days applies to declarations only and not to the information which a licensee is required to submit in writing under clause 3(1). The information required of the licensee in respect of (a) to (e) of clause 3(1) is intended to assist Govt. in determining the desirability or otherwise of the levy of the war costs surcharge and the extent thereof. It is open to Government to accept such information even after the lapse of 30 days provided that the submission is not so delayed as to prevent Govt. from fixing under clause 4(1) the rate of war

costs surcharge in respect of the licensee's under-
taking within 30 days of the receipt of the licensee's declaration under clause 3(1). Consequently the failure of a licensee to submit the information in writing within 30 days from the commencement of the Order will not preclude the application of clause 4(1) provided he has submitted his declaration in time under clase 3(1)

3. The E.L.A. is however at a loss to understand why the P.W.D. have taken the view that the Ahmednagar ~~xxxxxxx~~ Electric Supply Company have failed to make the required declaration within the prescribed limit of 30 days under clause 3(1). In their letter of 11th July 1944 (at page 3 ante) the coy. have definitely expressed their opinion that a surcharge was desirable and that the present surcharge in respect of their undertaking should at least be maintained if it is not possible to increase it. The order prescribes no form in which a licensee is required to make a declaration under clause3(1). The Coy's letter of 11th July was written within the prescribed time limit and having regard to its contents it cannot but be treated as a declaration. It is true that the coy. have not yet submitted the information in writing on points (a) to (e) of clause 3(1), but as already observed it is not incumbent on them to do so within 30days and Government can well grant them extension of time provided the information is received in time to enable Govt. to pass an order fixing the surcharge before the expiry of 60 days. Should the company fail to submit the information in good time it would still be open to Govt. to fix a reasonable surcharge within the limit prescribed under (a) or (b) to clause 4 (1) as the case may be, and then hold an inquiry under the first proviso to that clause.

Sd/- P.N. Moos,

Sd/.
F.N. Koos,

Remembrancer of Legal Affairs,

U.R. to P.W.D. No. 5432, dated the 2nd August 1944.

In view of the R.L.A.'s opinion a surcharge @ 33.1/3% may be declared for Ahmednagar.

Id/- G'N.P.
2.viii.44
Dy. Secy.

Yes and proper enquiry held.

Id/- R.H.L.
7/8/44.
Secy.(Irrigation.)

GJI.
8/8/44.

6331/36.

El.-Br. P.W.D.

Submitted with reference to G.O. No. 6331/36, dated the 16-6-1944.

2. The El. Engineer to Government has submitted the declaration of the following four licensees with a recommendation in each cases that the rate of war costs surcharge declared by the licensee, viz. 33 1/3 % of the Order and it may be sanctioned under clause 4(1) of the Order and its revision may then be taken up in consultation with the Examiner, outside Audit.

| | Date of declaration. |
|---|---|
| 1. M/S. Saraswati El. Supply Coy. Ltd. | 15-7-44. |
| 2. Mr. S.A. Manvi prop. M/S S.A. Manvi Bros, Licensee, Haveri El. License. | 1-8-44. |
| 3. Mr. S.A. Manvi, Licensee, Byadgi, El. License. | 1-8-44. |
| 4. Mr. S.A. Manvi Licensee, Ranebennur El. License. | 1-8-44. |

3. Since these licensees have not submitted their declarations within the prescribed period, i.e. by the 15th July 1944, no war costs surcharge can be fixed in their case under clause 4(1) of the Order, as recommended by the El. Engineer to Govt. unless the Order itself is amended to provide for such cases vide in this connection para 1 of the R.L.A.'s opinion No.5432, dated 2-8-44, recorded on the point raised in the Ahmednagar

case.

4. These licensees forfeit their right for levying any surcharge from the 15th August. 1944, as under clause 7 of the Order the existing surcharges at 33 1/3% applied by them under the provision of F.O. No. 6041/36, dated the 11-3-43, (which is cancelled separately) will be inoperative from that date.

5. Besides these four licensees mentioned above there are three other licensees, viz. those at Koregaon, Chopda and Jannar, from whom no declarations reg. surcharge under the Order have been recd. Since no declarations have been recd. it has to be presumed that ~~they do not desire to have any War Costs~~ they do not desire to have any War costs surcharge. These licensees also are at present levying surcharge at 33 1/3% under the present orders which will be inoperative from the 15th August, 1944.

6. The time of 30 days for the declaration of the war costs Surcharge was sufficiently liberal and there is no reason why the licensees mentioned in para 2 above ~~xxx the licensees mentioned in para.~~ should not have submitted their declarations within that limit. Our order is based on the order suggested by the G. of I. and in view of the remarks of that Govt. under the heading "General" in the Appx. attached to their covering letter No. A.957, dated the 2-3-44, it seems it will be necy. to consult that Govt. if an exception is to be made in the case these licensees (and those mentioned in para.5 above in case they represent later), and surcharge permitted in their case.

7. The G. of I may perhaps be addressed as per

draft put up for approval. in the meanwhile the licensees concerned may also be informed as per drafts on pp. 21&22 post put up for approval.

Id/-
15-8-44.

I agree.

Id/-
15-8-44.

VP. 11-8-44.

ORDER.

Public Works Department,
Bombay Castle, 22nd December 1944.

No. 6331/36 :- In exercise of the powers conferred by rule 81 of the Defence of India Rules, the Government of Bombay is pleased to amend the Bombay Electricity Supply (Licensed Undertakings' War Costs) Order, 1944, as follows, namely :-

In sub-clause (1) of clause 3 of the said order, for the words "within thirty days from the commencement of this Order", the words and figures "on or before the [illegible]-1-1945," shall be substituted.

*To be filled in by P.W.D.

By order of the Governor of Bombay,

R.H. Hammett.

Secretary to Government.

Office of the R.L.A.

A revised draft order is appended. It is not necessary to refer in particular to the seven licensees in the order, since the new date will cover all cases. It is of course not feasible to give legal cover retrospectively to the levy of the old surcharges made by any of the seven licensees after the 15th August 1944, in contravention of clause 7 of the Order.

Id/-

Remembrancer of Legal Affairs.

U.R. to P.T.D. No. 8567, dated the 6th December 1944.

6331/36

33747.

El. Br. P.W.D.

Submitted with reference to the proceedings on page 17-21 ante and the o.n. dated the 15-11-44.

2. A review draft order has been submitted by R.L.A. in lieu of the one on page 13 ante. It may be accepted, The date proposed in pencil in the draft order is for ~~application~~ approval. The order may be published in an extra ordinary gazette. The necessary draft letter to the seven licensees concerned is put up for approval.

3. With reference to 'A' of R.L.A.'s note overleaf it is observed that the licensees concerned have already been informed that no surcharge could be levied by them under the old order with effect from the 15th August 1944 - vide para. 2 of the letter on page. ante.

Id/- 20-12-44.

These licensees - except Chopda who says he did apply in time but the letter did not reach its destination - failed to apply in time due to carelessness on their part. They have suffered heavily on that account as they have lost the surcharge. The action as now proposed may be taken. I would suggest 20-1-45 as the last date before which the applications should reach Government.

Id/- 20-7-44.

I agree.
Id/- 20-12-44.

A(R).